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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,098	02/17/2004	David J. Allard	BOC9-2003-0087 (458)	9891
40987	7590	04/03/2008		
AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER RANGREJ, SHEETAL	
			ART UNIT	PAPER NUMBER
			3626	
			MAIL DATE	DELIVERY MODE
			04/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/780,098	Applicant(s) ALLARD ET AL.	
	Examiner SHEETAL R. RANGREJ	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Prosecution History Summary

1. Claims 1, 6, and 11 were amended.
2. Claims 16-19 are newly added.
3. Claims 1-19 are pending.

DETAILED ACTION

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hacker (6,988,075; hereinafter Hacker) in view of Snowden et al. (2002/0026332; hereinafter Snowden).

6. As per claim 1, Hacker discloses a method of permitting controlled access to medical information comprising:

(1) establishing a storage means for storing the medical information of the patient (Hacker: col. 7, lines 21-27);

(2) establishing a means for accessing the medical information by the patient or any other authorized user (Hacker: col. 7, lines 56-66).

Hacker does not explicitly teach controlling an authorization and a scope of access to the medical information by the patient according to an assigned role of a user accessing the medical

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information, by modifying an access control list; and wherein the access control list lists each authorized user and the assigned role of each authorized user.

Snowden teaches:

(3) controlling an authorization and a scope of access to the medical information by the patient according to an assigned role of a user accessing the medical information, by modifying an access control list (Snowden: para. 106-107; i.e. pre-authorized).

Wherein the access control list lists each authorized user and the assigned role of each authorized user (Snowden: para. 107).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings with the motivation of providing a user with managing their own health record (Snowden: para. 76) and providing a user with a secure data repository of their own medical record (Snowden: para. 79).

7. As per claim 2, Hacker discloses the method of claim 1, wherein the storage means is a central repository (Hacker: col. 7, lines 21-27).

8. As per claim 3, Hacker discloses the method of claim 1, wherein the means for accessing the medical information is controlled using a universally unique identifier (Hacker: col. 7, lines 60-63).

9. As per claim 4, Hacker discloses the method of claim 1, wherein said controlling step is overridden by a registered emergency provider (Hacker: col. 7, lines 66-67).

10. As per claim 5, Hacker discloses the method of claim 1, said controlling step further comprising notifying a patient that their medical information has been accessed (Hacker: col. 7, line 67-col. 8, line 3).

11. Claims 6-15 substantially repeat the same limitations as those in claims 1-5 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

12. As per claim 19, Hacker discloses the method of claim 1, further comprising assigning each user with a unique ID (Hacker: col. 7, 43-50) and pin (Hacker: col. 7, 43-50; i.e. alphanumeric passphrases) and tracking and notifying the patient of who accessed the medical information, what was accessed, and when was access taken place (Hacker: col. 7, 66-col. 8, 3). Although Hacker does not explicitly teach who accessed the medical information, it is obvious that who accessed the medical information is a pertinent information and the prior art suggests providing the information of who accessed the medical information.

13. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hacker (6,988,075; hereinafter Hacker) in view of Snowden et al. (2002/0026332; hereinafter Snowden) and further in view of Felsher (2002/0010679; hereinafter Felsher).

14. As per claim 16, Hacker and Snowden disclose the method of claim 1, but do not teach wherein the patient is compensated for permitting some of the medical information to be available and used by a research institution.

Felsher teaches wherein the patient is compensated for permitting some of the medical information to be available and used by a research institution (Felsher: para. 310).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings with the motivation of providing a medical history that may be of critical importance to the future of healthcare (Felsher: para. 7) and the need for privacy and security of a patient's information (Felsher: para. 17).

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15. As per claim 17, Hacker and Snowden disclose the method of claim 1, but do not teach wherein during a doctor visit the patient provides access to the medical information for a time period long enough to support the visit at which point the access times out.

Felsher teaches wherein during a doctor visit the patient provides access to the medical information for a time period long enough to support the visit at which point the access times out (Felsher: para. 354).

The motivation to combine the teachings is the same as claim 16.

16. As per claim 18, Hacker and Snowden disclose the method of claim 1, but do not teach wherein access to the patient's medical information expires when a physician logs into another room/appointment.

Felsher teaches wherein access to the patient's medical information expires when a physician logs into another room/appointment (Felsher: para. 359; i.e. second communication session).

The motivation to combine the teachings is the same as claim 16.

Response to Arguments

17. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

18. Applicant argues that the present invention further teaches assignment of access to allow for another physician to cover a patient while the primary provider is unavailable. The physician and/or the patient could assign or delete this limited access assignment. The Examiner notes that this limitation is not within the claim language, therefore it was not searched and examined.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Kuhn (6,023,765) discloses an implementation of role-based access control in multi-level secure systems.
- Kenneth D Mandl, Peter Szolovits, Isaac S Kohane, David Markwell, and Rhona MacDonald **Public standards and patients' control: how to keep electronic medical records accessible but private • Commentary: Open approaches to electronic patient records • Commentary: A patient's viewpoint** BMJ, Feb 2001; 322: 283 - 287.
- Roy Schoenberg, Charles Safran **Internet based repository of medical records that retains patient confidentiality** BMJ, Nov 2000; 321: 1199-1203.

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEETAL R. RANGREJ whose telephone number is (571)270-1368. The examiner can normally be reached on M-F 8:30-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SRR

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626